REMARKS/ARGUMENTS

In response to the Final Office Action mailed November 30, 2007, Applicants propose to amend their application and request reconsideration in view of the proposed amendments and the following remarks. In this amendment, Claim 1 is proposed to be amended, no claims have been proposed to be cancelled without prejudice, and no claims have been proposed to be added so that Claims 1-16 remain pending.

Claims 1-12 were rejected as being unpatentable over U.S. Patent Application No. 2004/0019375 to Casey, II et al. (Casey) in view of either U.S. Patent No. 4,780,344 or 5,234,727, both to Hoberman. This rejection is respectfully traversed.

The MPEP, in section 706.02(j), sets forth the basic criteria that must be met in order to establish a *prima facie* case of obviousness.

"To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In re Vaeck, 947 F.2d,488,20 USPQ2d 1438 (Fed.Cir. 1991). See MPEP § 2143 - § 2143.03 for decisions pertinent to each of these criteria."

Section 2143.03 of the MPEP clarifies certain criteria in section 706.02(j).

> "To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1074). "All words in a claim must be considered in judging

> the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d1596 (Fed. Cir. 1988)."

Casey does disclose a sectional crimped graft and Hoberman does disclose curved pleated sheet structures and reversibly expandable three-dimensional structures. The Examiner states that Hoberman uses the deficiencies of Casey; however, it is respectfully submitted that the Examiner is utilizing non-analogous art to make the rejection.

> The determination whether prior art is analogous involves some factual issues concerning whether the reference is within the field of the inventor's endeavor or reasonably pertinent to the particular problem with which the invention was involved" Finish Engineering Co., Inc. v. Zerpa Industries, Inc., 806 F.2d 1041, 1 USPQ2d1114 (Fed. Cir. 1986)."

The present invention focuses on improving fabrication techniques for tubular medical grafts as well as to provide sufficient radial support in combination with graft flexibility while reducing the potential for kinking. The present invention is to an implantable medical device. Casey teaches an implantable medical device but has certain limitations missing upon which he relies on Hoberman. The devices of Hoberman do not relate to the field of the inventor's endeavor (medical devices) nor are they reasonably pertinent to the particular problem described above. Accordingly, it is respectfully submitted that the art is non-analogous and cannot be utilized. Therefore, reconsideration and withdrawal of the rejection is respectfully requested.

Applicant would be grateful for the opportunity to conduct a telephonic or in-person interview if the Examiner believes it would be helpful in disposing of the present case.

The Reply raises no new issues and places the application in form for allowance, therefore, entry is proper and earnestly solicited.

Respectfully submitted,

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